

Look for Part 2 to come out in Spring 2008,
on how to deal with the court system, file complaints
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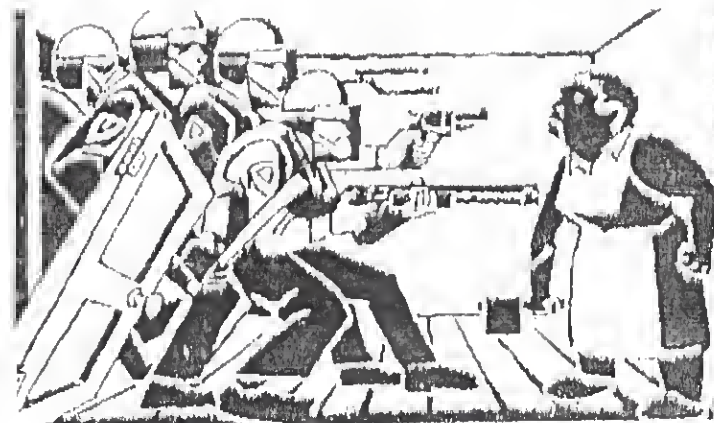


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Knowledge is Power! Staying Smart, Staying Safe

a guide to dealing with the Lawrence Police and
legal system for poor and working class people

Part 1



compiled and distributed by the
Legal Working Group of Kansas Mutual Aid

Legal Disclaimer

The authors and editors of this pamphlet, though knowledgeable in some areas of the law, are not lawyers. Nothing in this pamphlet should be taken as legal advice. Nothing in this pamphlet can actually take the place of contacting and talking with a lawyer skilled in the local legal system.

The contents of this pamphlet are, at the time of publishing, accurate to the understanding and knowledge of the authors and editors. However, because of the tendency of local, state and federal laws to be changed, re-written, updated, and even abolished, it is highly advised that the reader do as much research on their own on these topics.

The authors, editors, and distributors of this pamphlet are not liable in anyway for any actions, legal or otherwise that the reader or anyone else takes, whether because of the text in this pamphlet or otherwise.

Introduction

For poor and working people, the urgency and importance of understanding and being able to navigate the justice system is critical for survival in our society. Poor and working class people, because of the position they occupy within our society will find themselves in handcuffs, inside jails, and sitting in courtrooms more often than those that are middle class or rich.

When you look around the courtroom, you notice that many, if not most, of the people sitting in the room are poor whites, the homeless, or poor or working class people of color. Very rarely do we see college students or middle class people, and I doubt any of us have ever seen a rich person sitting in a courtroom. The truth of the matter is that in a society where the majority are poor and working class, a disproportionately high number of us will become victims of the justice system.

The reasons for this are many. Poor people often find themselves having to implement alternative ways to survive in a society in which money is the key to having food and shelter. Not all of these alternative ways to make money are legal. Poor people cannot afford pricey lawyers, and often because of a lack of a college education, are ignorant of rights and process in the justice system. Poor people are even targeted by laws specifically written against them! Anti panhandling ordinances, anti camping laws, and a variety of other codes are written to attack poor people directly. Others find themselves the victims of a society that selectively enforces laws against the poor and working class, while turning a blind eye to the same or worse crimes committed by the rich and powerful.

For the poor and working class sitting inside of Lawrence's courtroom each day, the awful truth of the way our society is structured is painfully clear. It is a crime to be poor. It is a crime to be working class. The pulsars will become low income housing projects where labor is forced and not paid.

employment, or enrollment in school. Have friends, family, coworkers, and other show up in the courtroom if they can.

You will most likely be given a future court date. Sometimes, if the District chooses not to file charges, you will be released without a court date. However, if the Municipal Court does decide to pursue the charges, you will receive a summons in the mail. Be on the lookout for a summons, and be sure to take note of the date of the hearing on it.

You will need to be in attendance or have your lawyer in attendance at this next court date. Failure to do so can lead you to being arrested for failure to appear.

Resources:

Legal rights info:

National:

Flex Your Rights: www.flexyourrights.org * 212-686-0861

American Civil Liberties Union: www.aclu.org * 1-888-567-ACLU

National Lawyers Guild: www.nlg.org * 212-679-5101

Local:

Douglas County A.L.U.: www.arldouglascounty.org * 785-842-8401

Kansas and Western Missouri A.L.U.: www.ackswmo.org

Douglas County Legal Aid Society (pro bono attorneys for people who can't afford them): 785-864-5561

KU Student Legal Services: www.legalservices.ku.edu * 785-864-5165

To report police misconduct:

Kansas Mutual Aid: 785-331-2954

Sources for this pamphlet:

http://www.flexyourrights.org/frequently_asked_questions#23

<http://www.aclu.org/policy/gen/14528res20040730.html>

3) You will be assigned as a "non-classified" prisoner. This is what the green jumpsuit means. You have not been formally charged yet, so you have no classification. This means that you will be treated differently than other prisoners that are classified, and though you will be housed with already classified prisoners (orange, red, brown, or other colored jumpsuits) your privileges (or lack thereof) will not be the same, and you will probably be allowed only limited contact with these other prisoners.

4) You will be asked to read and sign a copy of the Douglas County Jail Prisoners Handbook (sheets of paper that describe the rules and regulations) and be given a copy to keep on you or in your cell.

5) You will be given a blanket and a sheet and assigned in a cell. These cells are typically only for one person. In your cell you will be provided with a small mat to sleep on, a toilet and sink, and a writing desk.

6) You may be allowed to choose a book to take with you in your cell from the small jail library.

7) You will be fed whatever meals are served during the time period you are held in. You will also be required to shower twice daily during the period you are being held in.

8) You may be allowed to watch TV, spend time outside, or have "recreation time".

First Appearances

When you will be seen by a judge is determined by several factors, including what day (weekend or weekday) and time you were processed, and what court has jurisdiction over the charge you are facing.

If you are arrested over the weekend, it is possible to get a lawyer to pressure the "on-call judge" to release you or set a bail. However, generally, you will be jailed until first appearances resume on Monday.

District Charges are seen at 3:30pm weekdays in the jail courtroom. Municipal Charges are seen at 10:00am on weekdays in the jail courtroom. The jail courtroom is a room on site at the jail in which those arrested will appear before a judge by way of video conferencing technology. Any friends, family, or supporters should appear at the arrest courthouse (Municipal Court is located at 1000 New Hampshire and the District Court is located at 411 E. 14th Street).

Please be aware that although Municipal charges may carry less of a penalty, there is still a risk at jail time in either court, depending on the nature of the crime. In many cases, a minor charge that may start out at the District level will be dropped, and then actually brought back up by the prosecutor at the Municipal level.

Sometimes the judge will order you to be released without bail, or have bail lowered. Have your lawyer ask the judge about this possibility. It also helps to be able to prove residency.

This guide is written for poor and working class people living in Lawrence to help them to try to navigate the local justice system. The authors of this guide feel that we as poor and working class people need education and resources to start to empower ourselves to fight back against the rich and powerful. The court room is a frontline in this struggle for economic justice.

The authors of this pamphlet, in an attempt to create a world where justice and liberty are held in the highest regards, understand that not everyone is just a "victim of society", and that often, many of us do very horrible things to each other and our communities. But we also understand that until a level playing field exists for all residents of every city, then anti-social behavior will continue to flourish. This is one attempt at many to help level that playing field.

We envision a world in which our own communities can come together to sort out our problems, where the justice system is no longer an inside, complicated bureaucracy, but instead a manifestation of all of us living within our neighborhood, where we can hold each other accountable and also meet each other's needs so anti-social behavior does not have to be so prevalent.

This guide has multiple sections that will be discussing the processes of the Lawrence justice system, as well as tips and ideas for helping navigate it. Please keep in mind, the authors are not lawyers, and although we have fact-checked this material with lawyers to ensure that the material is as factual as possible, inconsistencies might still exist.

In solidarity, Kansas Mutual Aid Legal Working Group

Dealing with the cops

If we're in a courtroom it's a sure sign that at some point, we had to deal with the police. Learning how to handle police interactions is the most important way to avoid ending up in court in the first place. First, let's talk about right and reality.

Rights vs. Reality

We all know that we are guaranteed a lot of rights under the Constitution and other applicable laws and regulations when dealing with the police. The police are supposed to act in a civil manner and are supposed to respect those rights, especially after we point them out to the police. We all know that this is not how reality works.

While this pamphlet will list certain so-called protected rights and ways to handle police interactions, the first thing that must be understood is that the police can and will do anything they want to anyone they want. We have all heard stories about police misconduct and abuse, and many of us know this is not some aberration, but a systematic problem that affects people everyday. So, in our explanation of rights and suggestions for how to deal with the police, we have the basic understanding that in reality, the police will do what they want no matter what we say or do.

So why is it important to know our legal rights when dealing with the police? For starters, a legal strategy that may be able to win at the court level can be to prove that the police

violated your rights. Seriously, being knowledgeable and savvy can protect us in interactions with police officers that don't want to look bad in public or be outsmarted by common people.

Being stopped by the police

If you're stopped by the police for any reason...

Don't panic. Don't become immediately agitated or alarmed. Don't become immediately aggressive. Remember that anything you say to a police officer can and will be used against you in court. Defusing a situation early on can avoid jail and court cases in most instances.

Ask them if you are being detained before answering any other questions. You can ask "Am I being detained?" If the answer is no, you are freely able to walk away at this point without interacting with the police any longer. If their answer is "Yes", then you are not legally allowed to leave the situation.

Detainment means that you cannot leave the area, and must interact with the police officer, but it does not mean you have to answer all of their questions.

Be sure to keep track of where you are (cross streets, building location, etc.), the time it may be (even if you don't have an exact time, think about some sort of time reference such as "after school" or "on my way home from work"), and the name (Lawrence police do not have badge numbers) and/or physical description of the police officer, and what agency they may be from (Douglas County Sheriffs, Lawrence PD, State Troopers, etc.). If you can write this information down while you are interacting with the police, it might be a good idea (WARNING: Do not make any sudden movements or put your hands in your pockets in front of police officers. They may take this as a sign that you are going to use a weapon.)

All of this information will be useful in court, if you file a complaint, or for your own records.

Do I have to show ID to the police?

Yes, if you have ID on you. In the state of Kansas, we have an "Arrest and Identify Law". These types of laws make it unlawful to refuse to identify yourself to a police officer. Keep in mind that it is not against the law to not have an ID on you. It is only against the law to withhold your identification from the police. So, if the police ask you for your ID, and you don't have one on you, don't panic. You haven't broken a law. You only must be able to give all of your identifying information to the police. You cannot *legally* be arrested for not having an ID on you unless the police officer cannot positively ID you in any other way.

Do I have to answer the questions of the police?

You do not have to answer any other questions other than identifying yourself without an attorney present. It is highly advisable in many cases that you do not answer any other questions of a police officer if you feel you have no reason to. Any information an officer receives through questioning can always come back to haunt you or others in the future.

Do I have to allow a police officer to search me?

Police officers are legally allowed to search your home or your property if they obtain a search warrant. To obtain a warrant, police officers must write out an affidavit -- a written statement under oath -- to convince a judge that they have *probable cause* to believe that criminal activity is occurring at the place to be searched or that evidence of a crime may be found there.

Bonding Out

When it comes time to be able to bond out of jail, you have several options. You can pay the full amount (cash, debit or credit card) or you can go through a bondsperson to do so. Your friends/relatives/a family on the outside can also make these arrangements and you can work with them by using your phone calls to do so.

Keep in mind that bail money (unless you go through a bail bonding company) will be returned to you after you complete your legal process and may be used to pay fines, court fees, etc.

Bail bonds companies work to put the money up for you to be released from jail. These companies will charge you a non-refundable fee of usually between 10-40% of the bail amount depending on what the bail amount is and whether you live locally, have a job, or seem (by the bondsperson) to be a "flight risk".

Something to keep in mind when trying to decide to use a bondsperson is that once you use a bondsperson, they develop a financial interest in ensuring that you show up to court. If you do not show up for court, you may risk the legal consequences, but the bondsperson is the one that loses their money.

Many bondspersons use "bounty hunters" to track down people that fail to show up for court in other legal proceedings. People in the bonding industry do not like to lose their money and will work to ensure that you are caught and that they can collect what you owe them and then serve whatever sentence for missing your court date. When you deal with bondspersons, you are dealing with an extralegal company that can become just as harmful to you as the police.

When it comes time to be released after posting your bond, you will be given forms to sign by the guards. There should be at least two forms, one confirming a future court date (if there is one), and another confirming that you have been given your property back. Your property will be given to you right before you are set to leave.

If you are bonded out by a bondsperson, there may be additional forms for you to sign immediately upon being released.

Staying in jail

If you cannot be bonded out, or choose to stay in jail and risk seeing a judge instead of paying the bail, you will continue to be processed.

1) You will be taken to a shower unit. You will be required to remove your clothing and give it to the officer escorting you. You will then be searched while naked. The officer will then leave you a uniform (a pair of boxers for men, and boxers and a t-shirt for women, socks, shoes, and a green jumpsuit).

2) You will then be taken back out to the lobby to await being taken to the cell pods.

As a cooperating subject, you will most probably be allowed to sit in one of the seats in the "lobby."

NOTE: Whether you are held in a cell or in the lobby, you will go through a similar process, though those outside of cells will have more flexibility and freedom to move, and may go through the process quicker. Those sitting in the lobby are usually allowed to go to the bathroom at will, get water at will, and possibly even make phone calls from the collect call phones at will.

3) You will be taken to be fingerprinted, photographed, and identified. Douglas County Jail uses a digital camera process, and also has a fingerprinting machine, and does not generally use the old "ink and card" fingerprinting system.

4) A guard will ask you identifying questions, health questions, and employment questions. **NOTE:** If you inform police officers at any time that you are under care or have been under care for depression or other mental disabilities, you may be placed in a cell and watched on "strict watch".

5) Within a reasonable time after your arrest, or booking, you have the right to make a local phone call to a lawyer, bail bondsman, a relative or any other person. The police may not listen to the call to the lawyer. At Douglas County, there are collective call phones in the main processing area, and a list of available bail bonds people is taped to the wall by each phone. Before calling a bondsperson, it is important to understand what that means and how it works. Please see the section on Bailing Out below.

6) You will be told what you are preliminarily being charged with. **NOTE:** No charges are final or official until read aloud in a courtroom by a prosecutor or someone working for the prosecutor's office. The police can determine what charges you are being held for, and generally these are the charges that stick. However, charges may be dropped, added, or changed based on evidence and other issues in court before you actually face a trial for anything.

NOTE: You do not have to be immediately charged. Under new federal laws, you may be held 72 hours, or even indefinitely without charges!

7) You will be told if you qualify for bonding out, being released O.R. (on your own recognizance, or without needing to post any money), or will be held until a judge can assign you future charges, like Criminal Trespassing, are not initially "bailable offenses" and you will have to see a judge to have a bail set.)

8) At this point you will have to make a decision if you are given the option to bail out. Will you pay the full amount at the bail, or will you call a Bail Bond company to get you out? Or will you stay in jail and face a judge at arraignment and not spend any money? (There are instances where staying in jail over night will have you released by the judge O.R. or even have your charges dropped).

As a general rule, searches conducted without a warrant are minimally unreasonable and hence violate the Fourth Amendment. But in fact most searches occur without warrants because police take advantage of these many legal exceptions to the Fourth Amendment:

Consent Searches If the police ask your permission to search your home, purse, briefcase or other property, and you freely consent, then warrantless search automatically becomes reasonable and therefore legal. Consequently, whatever an officer finds during a consent search can be used to convict the person.

Plain View Rule This is common sense: Always keep any private items that you don't want others to see out of sight. Legally speaking, police do not need a search warrant in order to confiscate any illegal items that are in plain view.

Searches Made in Connection with a Legal Arrest Police do not need a warrant to make a search "incident to an arrest." After a legal arrest, police can legally protect themselves by searching the person and the immediate surroundings for weapons that might be used to harm the officer. Consequently, whatever an officer finds during such a search can be used to convict the person.

Exigent Circumstances A judge may uphold an officer's warrantless search or seizure if "exigent circumstances" exist. Exigent circumstances were described by one court as "an emergency situation requiring swift action to prevent imminent danger to life or serious damage to property, or to forestall the imminent escape of a suspect or destruction of evidence."

If you ever face a real life police encounter where the officer is asking you to consent to a search, do not try to figure out whether or not the search is legally permissible. You must assume that the search is not legally permissible and that the search will only be legal if you consent.

If an officer is in fact legally allowed to search you, you have nothing to lose by refusing to consent. If a police officer asks your permission to search, you are under no obligation to consent. The main reason why officers ask is because they don't have enough evidence to search without your consent. If you consent to a search request you give up one of the most important constitutional rights you have -- your Fourth Amendment protection against unreasonable searches and seizures.

What if the police call in drug-sniffing dogs?

Your rights do not disappear if the officer threatens to call in the dogs, so don't let this all-too-common tactic intimidate you into consenting to a search.

Before the dogs arrive, you have the right to dismiss yourself by asking if you are free to go. But if the officer detains you until the dogs come, remain silent and refuse to consent to any searches.

If a K-9 unit arrives, you should never consent to a dog sniff even if the officer claims you have to (which would be a lie). Remember: Unhooking your car at the officer's request or handing the officer your keys is the same as consenting to a search.

Aren't police required to read me my rights?

No. The courts have made clear that police officers do not have to tell people that they can refuse to consent to a warrantless search. In other words, a police officer does not need to read you your rights before asking you to consent to a search. Also, despite the widespread myth to the contrary, an officer does not need to get your consent in writing. Oral consent is completely valid.

Many people believe that an officer must automatically read a person his or her Miranda rights as part of performing an arrest, either immediately before or immediately after an arrest is made. This is also myth.

The truth is that the only time an officer must read a person his or her Miranda rights is when: (1) the person has been taken into custody, and (2) the officer is about to question the person about a crime.

Police officers are often pretty tricky about trying to get someone's consent to a search. They know that most people feel intimidated by police officers and are predisposed to comply with any request by a police officer. For example, the average motorist stopped by a police officer who asks them, "Would you mind opening the trunk, please?" will probably consent to the officer's search without realizing that they have every right to deny the officer's request.

Does all this information apply to minors?

Yes. Minors generally have the same rights as adults. For example, minors can refuse searches and decline to answer questions without an attorney present.

Nonetheless, minors have unique challenges when attempting to exercise these rights. Young people are highly susceptible to coercion by authority figures, and are easily convinced to waive their rights. Police will often take advantage of this by telling young people: "You're underage. You don't have any rights." This, of course, is a lie.

Just like adults, minors must understand and confidently assert their constitutional rights in order for these rights to protect them.

The rights of minors are also undermined by the fact that young people tend not to own property. Young people often use shared spaces, both at home and at school, which are controlled by adults. Since property owners may grant access to police and even authorize searches in many cases, young people have a reduced ability to protect their 4th Amendment rights when sharing space with others. The best protection is to clearly mark your own property so that it's clear that it's yours. Even your parents can't consent to a search of something that's clearly yours alone.

When can police search a person's room?

The Supreme Court has recently upheld laws permitting searches of people's homes. Currently, only California has such a law, but other states might follow suit in the near future.

In California, people can be visited and searched in their homes, as well as on the street. If you live with a partner, surprise inspections are a possibility. To protect yourself, make sure that your room is kept locked and that your roommate does not have access to it. Even during a surprise visit from the probation officer, your property should not be searched if it's clear that it was off limits to other residents.

If you're on probation or parole, or you live with someone who is, always be mindful of the possibility of surprise inspections.

Are police allowed to lie?

Yes. Police are generally permitted to lie if it helps them make arrests. The best example of this is when undercover officers claim not to be police. The rules regarding entrapment

Arrest Process

The process of arrest is different for everyone, but as mentioned earlier, there are clear methods involved with the arrest and booking processes in Douglas County that will be nearly universal.

Usually an arrest occurs when a police officer has told you that you are under arrest, or has physically restrained you and taken you into "custody." At this point you will probably be handcuffed behind your back and put into a prisoner transportation vehicle of some sort (usually a police car or police wagon).

In Lawrence, there are several options at this point that a police officer may employ. In some rare cases, once being put in custody of the officer, you may be written a ticket there on the spot and then released. The ticket will state a court date, the title and type of the infraction, and the officers' name and information.

A second scenario is that the officer may transport you to the parking lot behind the Douglas County Judicial and Law Enforcement Center (11th and Massachusetts Streets downtown) to carry out the same process.

However, a third and most likely scenario is that the police officer will transport you to the Douglas County Jail (601 E. 25th Street, below 2nd Street eastbound out of town to Franklin Street and turn left) to be booked and processed.

Booking Process

The Douglas County Jail's booking process is nearly identical to many across the country. At some point the Sheriff's Deputies (the Sheriff's Department runs the jail) will ensure that you are fingerprinted, photographed, background checked for warrants or probation/parole, and have preliminary charges set.

The step by step process for Douglas County Jail usually looks like the following:

1) You will be taken out of the prisoner transportation vehicle while inside a vehicle garage attached to the jail. At this point you will be pat-searched by guards of your gender and asked for identifying information, such as name, address, employer, etc.. Any property taken from you will be put into either an evidence bag or a property bag. The evidence bag will most likely go back to the Douglas County Judicial and Law Enforcement building downtown for holding until trial. The property bag should stay at the jail to be given to you upon release.

2) You will be escorted by a guard to the main processing "lobby" within the jail. In this area will be several guards behind a large desk, several holding cells, bathrooms, water fountains, collective call phones, and chairs. At this point, you will be determined to either be a cooperating subject or a non-cooperating subject and your handcuffs will be removed. As a non-cooperating subject (obviously agitated, making threats, swearing, resisting, hellbent or drunk), you will be placed in a holding cell (probably by yourself, but maybe with several other people).

If you are arrested, the police can search you and the area close by. If you are in a building, "close by" usually means just the room you are in.

Can someone else consent to a search of my property?

This depends on the circumstances. The Supreme Court has ruled that any occupant of a residence can refuse consent, even if other occupants agree to a search. Unfortunately, you must be present in order to assert your refusal. For this reason, it's important to make sure that your roommate understands their 4th Amendment rights in case something happens when you're not around. You may want to talk to your roommate about how to handle police visits and reach an agreement about how to handle such situations just in case.

As a general rule, police can obtain consent to search from anyone with control over the property. Someone who has a key, or whose name appears on the lease, can legally consent to a search of the property if no one else is present, or if no one else objects. If you rent the property, be advised that your landlord can also let the police in.

Finally, keep in mind that the courts often determine your "expectation of privacy" on a case by case basis. Keeping your room locked and maintaining control of your personal space can help protect you if a roommate ever lets police in. If your room is off-limits to your roommate and their friends, courts will often rule that it is off-limits to police as well.

What are my rights when the police come from home to workplace?

You have the same rights as outlined above in the previous sections on dealing with the police.

Being Arrested

In what is an all too familiar situation, for any number of reasons the police arrest you. This situation can be filled with anxiety, frustration, fear and depression. Through knowledge of what to expect from the arrest experience, many of us will be able to go through the process without experiencing damaging amounts of these emotions. It becomes important to understand the methods the police use, and what will happen once you are in jail. This information varies from jail to jail and from experience to experience. However, this information is nearly universal in what will happen to you at some point when you are arrested, processed, and jailed.

Do I have to talk to the police after I have been arrested?

You have the right to remain silent and to talk to a lawyer before you talk to the police. If you feel comfortable doing so and have no reason to hide your identity, tell the police nothing except your name and address. Don't give any explanations, excuses or stories. You can make your defense later, in court, based on what you decide is best.

Ask to see a lawyer immediately. If you can't pay for a lawyer, you have a right to a free one, and should ask the police how the lawyer can be contacted. **Don't say anything without a lawyer.**

usually tip in favor of law enforcement, so police won't hesitate to tick you into incriminating yourself or others. This is particularly common during interrogations in which officers might tell you that "your friend already gave you up, so you might as well come clean."

The best defense against these manipulative tactics is to avoid saying anything to police without first speaking with an attorney.

NOTE: An undercover police officer or informant does not have to tell you they are working for the police!

How do my rights apply when dealing with private security?

Be aware that private security personnel outnumber police officers in the United States by three to one. As a result, you may be more likely to be confronted by a security guard than by a police officer. You must also be aware of the following places where security personnel (governmental or otherwise) are permitted to search you without a warrant.

Border Searches The Supreme Court has held that an officer does not need a warrant, probable cause, or even reasonable suspicion to search you, your car, or your belongings, at a border. Therefore, any time you cross a U.S. border, you in effect consent to a search.

Airport Searches Be aware that airport security personnel do not need a warrant, probable cause, or even reasonable suspicion to search you or your belongings before boarding any commercial airline. Again, any time you board a commercial airline, you in effect consent to a search.

Private Security Checks Private security personnel have a right to search you as a condition of entry into private property, for example. It is up to the individual to decide if a search is worth the price of admission. As long as you are free to walk away, the security personnel do not pose a threat to your constitutional liberties.

Keep in mind that a security guard can turn illegal drugs over to a police officer. In such a case, the drugs are then admissible in evidence, because the search was conducted by a private security guard. And at the present time the Fourth Amendment does not apply to searches carried out by non-governmental employees like private security guards.

Being pulled over by the police

What information do I have to provide to the police officer if I am pulled over?

You must show your driver's license, proof of insurance and registration when stopped in a car. Otherwise, you don't have to answer any questions if you are detained or arrested.

NOTE: If you're suspected of drunk driving (DUI) and refuse to take a blood, urine or breath test, your driver's license may be suspended.

Do I have to let them search my car?

No. See the section on being searched above.

In certain cases, your car can be searched without a warrant as long as the police have probable cause. In protest yourself later, you should make it clear that you do not consent to a search. It is not lawful for police to arrest you simply for refusing to consent to a search.

Do I have to sign a ticket?

If you're given a ticket and you refuse to sign it, you can be arrested. You can always fight the case in court later.

When can police order me out of the car?

During a legitimate traffic stop, police may order the driver and any passengers out of the vehicle. This rule is intended to protect officers' safety, but it's often used for investigatory purposes. Police who order you out of the vehicle probably suspect you of criminal activity, so be prepared for a pat-down and maybe a search request.

What are the rights of passengers during traffic stops?

Traffic stops typically occur as a result of suspected moving violations committed by the driver of the vehicle. Passengers cannot be held responsible for the driver's conduct, and are generally free to leave, unless police become suspicious of them during the course of the stop.

Unfortunately, this happens frequently and the amount of evidence required to detain passengers is minimal. For this reason, passengers must remember to refuse search requests and refrain from answering questions without an attorney present. Police who suspect criminal activity will often separate the occupants of an automobile and question them separately. If their stories differ, this could lead officers to claim that they have probable cause to prolong the detention or conduct a search.

As with any other brief detention, the best way to handle this situation is to ask if you're free to go.

Roadblocks: What's the deal?

There are several types of roadblocks and they're quite different.

Sobriety Checkpoints

Also known as DUI Checkpoints or, sometimes, Driver's License Checkpoints, these are the most common roadblocks you might encounter. They function as a general purpose investigatory tactic in which police get a good hard look at passing motorists by detaining them briefly. A roadblock stop is quick, but it gives police a chance to check tags and licenses, while also giving officers a quick whiff of the driver's breath and a chance to peer into the vehicle for a moment.

Remember that your Constitutional rights still apply in a roadblock situation. Though police are permitted to stop you briefly, they may not search you or your car unless they have evidence against you or you agree to the search. Keep in mind, however, that if you're driving under the influence, your Constitutional rights provide very little protection in this situation.

Since the Supreme Court's ruling in *Hirabayashi v. California*, police also have more leeway to use drug-sniffing dogs in roadblock situations. Unfortunately, the Constitution provides very little protection against this. There's no need to waive your rights simply because dogs are present, but be advised that your legal options are limited if you're arrested as a result of a dog sniff during a roadblock. Keep this in mind when deciding whom what to bring with you in the car.

Also keep in mind that police closely monitor cars approaching the roadblock. You're not likely to have any success evading an upcoming roadblock.

Sobriety Checkpoints are generally provided by the courts, but only if conducted properly. If you're arrested at a police roadblock, always consult an attorney before confessing or agreeing to a plea bargain. There might be some legal options that your lawyer can pursue.

Emergency Checkpoints

Sometimes police will set up temporary roadblocks after a serious crime occurs. The purpose of emergency checkpoints is to capture suspects or to identify possible witnesses. In this situation, police will often allow you to pass through once they confirm that you're not the person they're looking for. Of course, police are free to arrest you for minor crimes even if they're investigating something more serious.

If a serious crime occurs in your area, keep in mind that more police will be on the streets. Officers are often required to work longer hours during emergency periods, which can make them tense and irritable. Use caution in such situations even if you haven't done anything wrong, and remember that dealing with emergencies is something we want our police officers to do.

Checkpoints Near the Border

Police sometimes set up checkpoints near national borders. These are similar to other checkpoints in that officers may ask questions and check your documents. Police may try to intimidate you in consenting to a search, but remember that being near a border is not the same as crossing it. You have a right to refuse searches at these checkpoints just like the others.

Drug Checkpoints

Drug checkpoints are a trap! The Supreme Court has ruled that random checkpoints for the purpose of finding illegal drugs are unconstitutional. However, police sometimes put up signs warning drivers of upcoming drug checkpoints and instead pull over people who make illegal turns or discard contraband out the window. If you see a sign saying "Drug Checkpoint Ahead", just keep driving and don't panic. If there's a rest area following the sign, DO NOT pull into it. If you do, you'll find yourself surrounded by drug-sniffing dogs.

Police Departments, especially in the Mid west, have been pushing their luck with this tactic, so if you encounter anything resembling an actual drug checkpoint, please contact the Douglas County ATTOL. Similarly, if you're arrested as a result of a real or fake "drug checkpoint", you must contact an attorney to explore your legal options.

When the police come knocking...

When can the police search my home?

Generally, if the police knock and ask to enter your home, you don't have to admit them unless they have a warrant signed by a judge. However, in some emergency situations (like when a person is screaming for help inside, or when the police are chasing someone and have probable cause to believe they are inside the building) officers are allowed to enter and search your home without a warrant.